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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

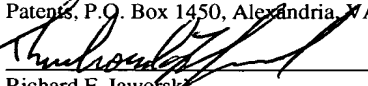
Applicants : Mark Russell ATTIEH
Serial No. : 09/937,976
Filed : September 28, 2001
For : A METHOD FOR CONDUCTING FINANCIAL TRANSACTIONS
Group A.U. : 3621
Examiner: John M. WINTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANT'S BRIEF

Sir:

This is an appeal from the final rejection of all of the remaining claims in this application
(claims 52-54, 57-59, 61, 63, 65 and 67-72) under 35 U.S.C. §103(a).

I hereby certify that this paper is being deposited this date with the U.S. Postal Service as first class mail addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.	
	Feb. 19, 2010
Richard F. Jaworski Reg. No. 33,515	Date

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STATEMENT OF REAL PARTY IN INTEREST

The real party of interest in this appeal is Simplus (Proprietary) Limited of South Africa.

RELATED APPEALS AND INTERFERENCES

No related appeals or interferences are pending. This application was not involved in any prior appeals or interferences.

STATUS OF CLAIMS

Claims 1-51, 55, 56, 60, 62, 64 and 66 have been canceled. Claims 52-54, 57-59, 61, 63, 65 and 67-72 are pending, with claims 52, 61 and 72 being in independent form.

All pending claims are rejected under 35 U.S.C. §103(a) over U.S. Patent 6,304,857 to Heindel et al. in view of U.S. Patent 5,974,146 to Randle et al. and further in view of U.S. Patent 6,044,360 to Picciallo.

STATUS OF AMENDMENTS

No amendments have been filed subsequent to the final rejection dated January 21, 2009.

SUMMARY OF CLAIMED SUBJECT MATTER

For convenience of understanding, the following is a reading of the independent claims

on the specification of the present application. Of course, the claims are not intended to be limited in any way by this reading. The subject matter of the rejected claims relates to method for conducting financial transactions.

Independent claim 52 recites that the method for conducting financial transactions comprises providing an intermediate database (database 18, Fig. 1), providing an intermediate database computer controlling the intermediate database (database 18 is stored within a computer page 5, last full paragraph), linking a first terminal identifier (cell phone number or other identifying information) of a first communication device (cell phone 14) to a first account number (first bank account number) of a first account (first bank account), storing the linked first terminal identifier and the first account number in the intermediate database (18) (2nd and 3rd lines from bottom of page 5), receiving from the first communication device (cell phone 14) via a communication network (cell network 12), information (second bank account no.) identifying a second account (second bank account) (last two lines of page 5, first two lines page 6) and an amount (transaction amount) requested to be paid from the first account to the second account (page 6, lines 7-9), accessing the intermediate database (database 18) using the first terminal identifier (cell phone number or other identifying information) of the first communication device (cell phone 14) and obtaining the first account number (page 6, lines 10-12), using the first account number (cell phone number or other identifying information) to communicate a signal that interrogates the first account (at bank database 20) and determines whether sufficient funds are available in the first account to effect payment (page 6, lines 12-14) and when it is

determined that sufficient funds are available, debiting the first account and crediting the second account (page 6, lines 16-18) and when it is determined that insufficient funds are available, canceling the transaction (page 6, lines 14-16.)

Independent claim 61 relates to a system for conducting financial transactions comprising an intermediate database (database 18, Fig. 1), an intermediate database computer controlling the intermediate database (database 18 is stored within a computer, page 5, last full paragraph), a first terminal identifier (cell phone number or other identifying information) of a first communication device (cell phone 14) linked to a first account number (first bank account number) within the intermediate database (18), the linked first terminal identifier and first account number stored in the intermediate database, with the computer in communication with a communication network (network 12), receiving from the first communication device (cell phone 14) via the communication network (12), the first-terminal identifier of the first communication device (cell phone 14) instead of the first account number (the first cell phone does not communicate the first bank account number), information identifying a second account (second bank account, last two lines of page 5, first two lines of page 6), and an amount requested to be paid from the first account to the second account (page 6, lines 7-9), accessing the intermediate database (18) using the first terminal identifier (cell phone number or other identifying information) of the first communication device (cell phone 14) and obtaining details of the first account (user's bank account, page 6, lines 10-12), using the details of the first account to communicate a signal that interrogates the first account and determines whether sufficient funds

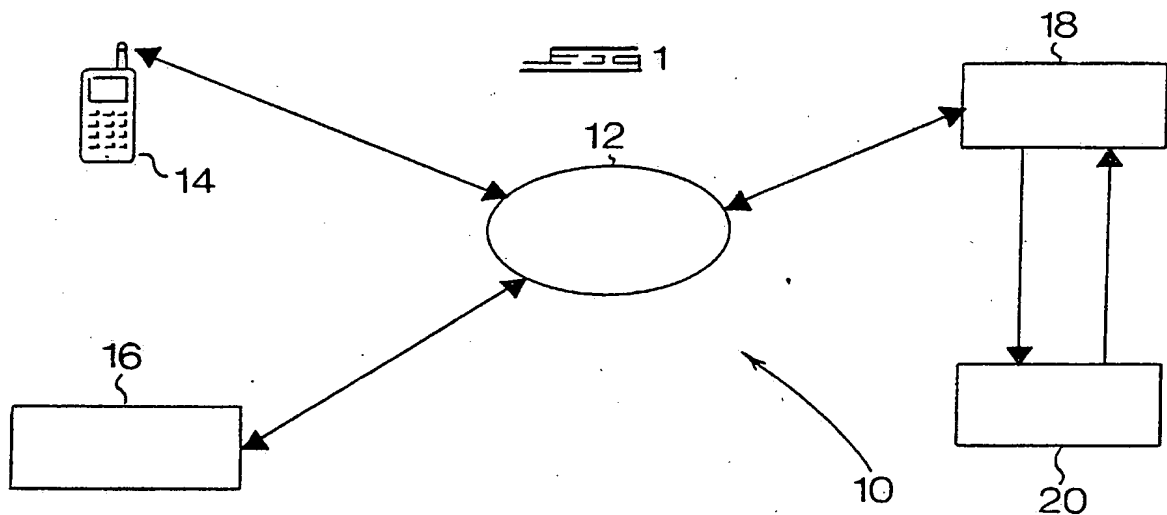
are available in the first account to effect payment (page 6, lines 12-14) and when it is determined that sufficient funds are available, debiting the first account and crediting the second account (page 6, lines 16-18) and when it is determined that insufficient funds are available, canceling the transaction (page 6, lines 14-16).

Independent claim 72 relates to a system for conducting financial transactions comprising a communications network (cell network 12) in communication with a device (cell phone 14) having a first terminal identifier uniquely associated therewith (cell phone number or other identifying information) and an intermediate database system (database 18) in communication with the communications network (12) and including a database and storing linking information linking the first terminal identifier with a first account number (2nd and 3rd lines from bottom of page 5), wherein the intermediate database system (18), receives from the first communication device (cell phone 14) via the communications network (12), the first terminal identifier (cell phone number or other identifying information), information identifying a second account (second bank account), and an amount requested to be paid from the first account to the second account (page 6, lines 6-8), accesses the intermediate database (18) using the linking information to identify the first account number from the first terminal identifier and obtaining information relating to the first account (page 6, lines 10-14), uses the information relating to the first account to communicate a signal that interrogates the first account and determines whether sufficient funds are available in the first account to effect payment (page 6, lines 10-14), and when it is determined that sufficient funds are available, debiting the first

account and crediting the second account (page 6, lines 16-18) and when it is determined that insufficient funds are available, canceling the transaction (page 6, lines 14-16.)

Credit cards and smartcards are widely used to effect payment. However, neither provides an effective and secure way of conducting financial transactions (specification, page 1, Background Of The Invention.)

The claimed invention relates to a method for conducting financial transactions. A non-limiting example supporting the claimed limitations at issue is illustrated in Fig. 1 which is reproduced below.



According to an embodiment of the present disclosure, a phone number or other unique identifying information (first terminal identifier) relating to a user's cell phone 14 (first communication device) is linked to a bank account number (first account number) of the user's bank account (first account). Information relating to the user's bank account is stored in bank's database 20. The linking information is stored at intermediate database 18. When the user of the cell phone 14 desires to make a purchase from a vendor operating point of sale terminal 16, for example, the user makes a call to their cellular network 12 using the cell phone 14 and enters the amount to be paid, the telephone number of the point of sale terminal 16 and a personal identity code. The cellular network 12 then communicates with the intermediate database 18 which, because of the link between the phone number or other unique information identifying the cell phone 14 and the bank account number, can be used to query bank's database 20 to determine whether there are sufficient funds in the user's bank account.

Similar linking information may be provided for point of sale terminal 16 linking the phone number or other unique information identifying the terminal 16 with the vendor's bank account number and stored in database 18. In this way, when the user of the cell phone 14 sends the telephone number of the point of sale terminal 16 to database 18, the vendor's bank account can be credited accordingly, without the need of sending any secure bank account information (user's or vendor's) with the transaction.

In this way, the user does not need to provide sensitive information such as their bank account details over the cellular network during the transaction and does not require the user to

carry around a credit card, smartcard, debit card, checking account information, etc. Of course, the claims are not limited to the disclosed embodiments.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 52-54, 57-59, 61, 63, 65 and 67-72 stand rejected under 35 U.S.C. §103(a) as obvious from U.S. Patent 6,304,857 to Heindel et al. in view of U.S. Patent 5,974,146 to Randle et al. and U.S. Patent 6,044,360 to Picciallo.

ARGUMENT

Rejection under 35 U.S.C. §103(a) over U.S. Patent 6,304,857 to Heindel et al. in view of U.S. Patent 5,974,146 to Randle et al. and U.S. Patent 6,044,360 to Picciallo

The applied references do not teach or suggest the claimed invention.

Heindel et al., relates to a distributed electronic billing system with gateway interfacing biller and service center. Heindel et al. converts billing data from a legacy billing system (e.g., a paper billing system) into an electronic bill format.

However, no teaching could be found in Heindel et al. of linking a first terminal identifier of a first communication device to a first account number of a first account, as recited in independent claim 52, or of a first terminal identifier of a first communication device linked to a first account number, as recited in independent claim 61. In addition, no teaching could be found

in Heindel of a communications network in communication with a device having a first terminal identifier uniquely associated therewith and an intermediate database system in communication with the communications network and including a database and storing linking information linking the first terminal identifier with a first account number, as recited in independent claim 72.

Randle et al. relates to a real time bank-centric universal payment system. Randle et al. is cited as allegedly disclosing accessing the intermediate database and using the first terminal identifier of the first communication device and obtaining the first account number and using the first account number to communicate a signal that interrogates the first account and determines whether sufficient funds are available, and when it is determined that sufficient funds are available, debiting the first account and crediting the second account and when it is determined that insufficient funds are available, canceling the transaction.

However, no teaching could be found in Randle et al. of accessing the intermediate database using a first terminal identifier of a first communication device and obtaining a first account number, as recited in independent claim 52, or of accessing the intermediate database using a first terminal identifier of a first communication device and obtaining details of the first account, as recited in independent claim 61. In addition, no teaching could be found in Randle et al. of accessing the intermediate database using the linking information to identify the first account number from the first terminal identifier and obtaining information relating to the first account, as recited in independent claim 72.

Picciallo relates to a third party credit card and was cited as disclosing information identifying a second account and an amount requested to be paid from the first account to the second account. However, Picciallo does not disclose any of the elements missing from Heindel et al. and/or Randle et al. that would have made the claims obvious.

It is respectfully submitted that the Examiner has erred in fundamental respects in rejecting the claims of this application. The Examiner is mistaken in concluding that the primary reference, Heindel et al. discloses linking a first terminal identifier of a first communication device to a first account number of a first account (having funds to effect payment) (claim 52) or of a first terminal identifier of a first communication device linked to a first account number (of an account having funds to effect payment) (claim 61) or of storing linking information linking the first terminal identifier (of a device in communication with a communications network) with a first account number (of an account having funds to effect payment) (claim 72.) The Examiner is also mistaken in concluding that Randle et al. discloses accessing the intermediate database using a first terminal identifier of a first communication device and obtaining a first account number. Each of these issues is discussed in more detail below.

A. The Cited Art Does Not Teach or Suggest Linking A
First Terminal Identifier of A First Communication
Device to A First Account Number Of A First Account

The Office Action (page 3, para. 3) alleges that col. 7, lines 16-50 and Fig. 3 of Heindel

et al. describe the claimed linking step. The cited portion of Heindel et al. describes a biller integration system that converts billing data from the biller's legacy billing system into data acceptable to a service center. A translator 38 is configured to intercept printer data file that is destined for a printer or database. The printer data file is formatted for printing paper bills. The translator 38 extracts the raw billing data from the printer data file and creates a new file that is saved in database 60. The new file is sent over to a service center for incorporation into a template (col. 7, lines 20-27.). The system also includes a statement designer 60 to create and design the statement template (col. 7, lines 28-38) and a rules manager 66 to establish the rules for inclusion or exclusion of resources in the billing statement (col. 7, lines 39-50.) The Office Action (page 3, para. 3) further suggests that element 40 of Fig. 1 in Heindel et al. corresponds to the claimed intermediate database. In Heindel et al., multiple participating billers 22, multiple banks 26 and multiple consumers 28 can connect to service center system 24 via a network such as the Internet. Database 40 is actually a database for storing biller statements that are electronically distributed to consumers over the network (col. 5, lines 53-55.) There is nothing in Heindel et al. that teaches storing any sort of linking information, still less storing linking information linking a terminal identifier of a communication device to an account number of an account.

Accordingly, Heindel et al. fails to teach linking a first terminal identifier of a first communication device to a first account number of a first account, as recited in independent claim 52; or of a first terminal identifier of a first communication device linked to a first account

number, as recited in independent claim 61. Heindel et al. also fails to teach an intermediate database for storing such linking information. In addition, Heindel et al. fails to teach a communications network in communication with a device having a first terminal identifier uniquely associated therewith and an intermediate database system in communication with the communications network and including a database and storing linking information linking the first terminal identifier with a first account number, as recited in independent claim 72.

**B. The Cited Art Does Not Teach or Suggest Accessing The
Intermediate Database and Using the First Terminal Identifier
Of The First Communication Device to Obtain The First Account Number**

It is not completely clear from the Office Action whether the Examiner believes that Heindel et al. describes the claimed accessing step. For example, the first two lines of page 4 of the Office Action seem to indicate that the accessing step is disclosed at col. 8, lines 23-39 of Heindel et al. However, lines 3-5 of page 4 of the Office Action indicate that Heindel et al. does not disclose the accessing step.

In any event, to the extent that the Office Action might suggest that this portion of Heindel et al. describes the claimed accessing step, Applicant respectfully disagrees. The cited portion of Heindel et al. actually describes how consumers can review their bills and determine whether to pay all, part or none of a bill and that the service center receives the payment and bundles various payments destined for individual billers into batch disbursements for those

billers (col. 8, lines 23-39 of Heindel et al.) Heindel et al. does not teach accessing a database using a terminal identifier of a communication device.

Accordingly, Applicant finds no teaching in Heindel et al. of accessing an intermediate database and using the first terminal identifier of the first communication device to obtain the first account number, as recited in independent claim 52, or of accessing the intermediate database using the first terminal identifier of the first communication device and obtaining details of the first account, as recited in independent claim 61. Applicant also finds no teaching of accessing the intermediate database using the linking information to identify the first account number from the first terminal identifier and obtaining obtain information relating to the first account, as recited in independent claim 72.

As noted above, the Office Action also states that Heindel et al. does not explicitly disclose accessing the intermediate database and using the first terminal identifier of the first communication device and obtaining the first account number. Randle et al. was cited as allegedly disclosing these features. In particular, the Office Action cites col. 10, lines 31-41 of Randle et al. as allegedly disclosing these features.

Randle et al. relates to a real time bank-centric universal payment system. The system includes an electronic commerce trust system (ECTS) into which customers and merchants apply for membership. The ECTS includes a hot file which contains an archive of lost, stolen or discontinued user cards and performs account verification, identification and authentication functions. The customer applies at their bank and lists what merchant companies to pay via bill

presentment/bill pay services. The merchant company applies at the merchant's bank for membership and bill presentment/bill pay services. Each bank includes certificate management, real-time transaction processing, ECTS on us processing, real-time account management, protocols and messaging and account databases. Each bank sends the applications to the ECTS which issues a bank branded BITS card and secure code certificate to the customer and accepts the merchant company's application (col. 7, lines 43-58.) From a home PC, a customer having a Bits card reader and desiring to make a purchase sends an inquiry which passes through the merchant company to the ECTS. The ECTS confirms the customer's BITS card is valid by passing the payment information through the hot file. The ECTS then sends an inquiry to the customer's bank "Does customer have funds available to make the purchase?" If the funds are available, the ECTS notifies the merchant company and the customer is notified via the merchant's web site that the purchase is authorized (col. 10, lines 31-41.) The BITS card is a "secure card" by which positive identification of the user is associated with a PIN, biometric verification such as ocular scan or thumbprint identification, etc. (col. 12, line 65 – col. 13, line 1.)

However, Randle et al. also does not teach any use of a terminal identifier of a communication device, still less accessing the intermediate database and using the first terminal identifier of the first communication device and obtaining the first account number, as recited in independent claim 52 or of accessing the intermediate database using the first terminal identifier of the first communication device and obtaining details of the first account, as recited in

independent claim 61. In addition, Randle et al. does not teach accessing the intermediate database using the linking information to identify the first account number from the first terminal identifier and obtaining information relating to the first account, as recited in independent claim 72.

C. Picciallo Does Not Teach Or Suggest The Missing Elements

The Office Action notes that Heindel et al. does not explicitly disclose information identifying a second account and an amount requested to be paid from the first account to the second account and cites Picciallo as allegedly disclosing these features.

Picciallo, as understood by Applicant, relates to a third party credit card. However, Picciallo provides none of the elements missing from Heindel et al. and Randle et al. as discussed above, that would have made the claims obvious.

D. Optional or Conditional Claim Elements

The Office Action states that optional or conditional elements do not narrow the claims because they can always be omitted, citing MPEP §2106 II C.

It is respectfully pointed out that the claims of the present application provide clear and definite limitations and do not include any “optional” language within the meaning of the cited

portion of the MPEP. For example, independent claim 52 recites that when it is determined that sufficient funds are available, debiting the first account and crediting the second account and when it is determined that insufficient funds are available, canceling the transaction. It is clear from the grammar and intended meaning that these elements of the claims are not “optional” and must be considered when determining patentability of the claims. For example, claim 52 includes an “if/then/else” statement. However, “if/then/else” statements are not optional and still require the steps to be performed depending on the status of the “if” portion of the statement.

Accordingly, it is submitted that each of the recited claim elements should be appropriately considered.

CLAIMS APPENDIX

A listing of the claims in the application are reproduced below:

Claims 1-51 (Previously Canceled)

Claim 52 (Previously Amended): A method for conducting financial transactions comprising:

providing an intermediate database;

providing an intermediate database computer controlling the intermediate database;

linking a first terminal identifier of a first communication device to a first account number of a first account;

storing the linked first terminal identifier and the first account number in the intermediate database;

receiving from the first communication device via a communication network, information identifying a second account and an amount requested to be paid from the first account to the second account;

accessing the intermediate database using the first terminal identifier of the first communication device and obtaining the first account number;

using the first account number to communicate a signal that interrogates the first account and determines whether sufficient funds are available in the first account to effect payment; and

when it is determined that sufficient funds are available, debiting the first account and crediting the second account and when it is determined that insufficient funds are available, canceling the transaction.

Claim 53 (Previously Presented): The method of claim 52 further comprising conducting the financial transaction on a real time, on-line basis.

Claim 54 (Previously Amended): The method of claim 52 wherein the first account number is a first bank account number and the first account is a first bank account.

Claim 55 (Previously Canceled)

Claim 56 (Previously Canceled)

Claim 57 (Previously Presented): The method of claim 52 wherein the first communication device is a cellular telephone.

Claim 58 (Previously Presented): The method of claim 52 further comprising communicating the fact of the transaction to the first communication device.

Claim 59 (Previously Amended): The method of claim 52 further comprising communicating the fact of the transaction to a second communication device.

Claim 60 (Previously Canceled)

Claim 61 (Previously Amended): A system for conducting financial transactions comprising:

- an intermediate database;

- an intermediate database computer controlling the intermediate database;

- a first terminal identifier of a first communication device linked to a first account number within the intermediate database, the linked first terminal identifier and first account number stored in the intermediate database, with the computer in communication with a communication network;

- receiving from the first communication device via the communication network, the first terminal identifier of the first communication instead of the first account number, information identifying a second account, and an amount requested to be paid from the first account to the second account;

- accessing the intermediate database using the first terminal identifier of the first communication device and obtaining details of the first account;

- using the details of the first account to communicate a signal that interrogates the first

account and determines whether sufficient funds are available, in the first account to effect payment; and

when it is determined that sufficient funds are available, debiting the first account and crediting the second account and when it is determined that insufficient funds are available, canceling the transaction.

Claim 62 (Previously Canceled)

Claim 63 (Previously Presented): A method for conducting financial transactions according to claim 52, further comprising canceling the transaction when it is determined that sufficient funds are not available.

Claim 64 (Previously Canceled)

Claim 65 (Previously Presented): A system for conducting financial transactions according to claim 61, further comprising canceling the transaction when it is determined that sufficient funds are not available.

Claim 66 (Previously Canceled)

Claim 67 (Previously Presented) The method of claim 52, wherein the information to be used to identify the second account is a second account number.

Claim 68 (Previously Presented) The method of claim 67, wherein the second account number is a second bank account number, and the second account is a second bank account.

Claim 69 (Previously Presented) The method of claim 52, further comprising:
linking a second terminal identifier of a second communication device to a second account number of a second account; and
storing the linked second terminal identifier and second account number in the intermediate database.

Claim 70 (Previously Presented) The method of claim 69, wherein the information to be used to identify the second account is the second terminal identifier.

Claim 71 (Previously Presented) The method of claim 70, wherein the second terminal identifier is the telephone number of a second communication device.

Claim 72 (Previously Amended) A system for conducting financial transactions comprising:

a communications network in communication with a device having a first terminal identifier uniquely associated therewith; and

an intermediate database system in communication with the communications network and including a database and storing linking information linking the first terminal identifier with a first account number, wherein the intermediate database system,

receives from the first communication device via the communications network, the first terminal identifier, information identifying a second account, and an amount requested to be paid from the first account to the second account,

accesses the intermediate database using the linking information to identify the first account number from the first terminal identifier and obtaining obtain information relating to the first account,

uses the information relating to the first account to communicate a signal that interrogates the first account and determines whether sufficient funds are available in the first account to effect payment, and

when it is determined that sufficient funds are available, debiting the first account and crediting the second account and when it is determined that insufficient funds are not available, canceling the transaction.

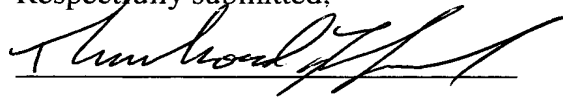
EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX

None

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard F. Jaworski", written over a horizontal line.

RICHARD F. JAWORSKI

Reg. No. 33,515

Attorney for Applicants

Cooper & Dunham LLP

Tel.: (212) 278-0400